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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,127	06/16/2006	Nicole Weber	101914325	4206
26646 7590 05/05/2009 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER ZANELLI, MICHAEL J				
ART UNIT		PAPER NUMBER		
3661				
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05/05/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/566,127

Applicant(s)

WEBER ET AL.

Examiner

Michael J. Zanelli

Art Unit

3661

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 June 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 1/25/06; 10/27/06; 3/17/09
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This application has been examined. The preliminary amendment filed 1/25/06 has been entered. Claims 11-20 are pending.
2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
3. The IDS filed 1/25/06, 10/27/06 and 3/17/09 have been considered.
4. The drawings are objected to because block 10 requires a descriptive legend. Also block 10 includes a second block which is not identified by reference numeral or descriptive legend. It is further noted that the variables shown in the figure do not match the variables described on pages 6-7 of the specification. Finally, the drawings must show every feature of the invention specified in the claims. Therefore, the bandpass filter recited in claim 17 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 11-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

A. As per claims 11 and 18, the claims include calculation of target rotation speeds and target torques for each of the internal combustion engine and first and second electric motors based on a coupling condition of the transmission. The substitute specification on page 6 states that a control system 10 receives various input variables, and based on the input variables and the coupling conditions of transmission 4, calculates various target rotation speeds and target torques. The specification provides no mathematical equations or detailed algorithms which would enable one of ordinary skill in the art to make and use the invention as claimed. Applicant appears to have intentionally left out the

detailed functioning of the control system (see spec. pg. 6, lines 2-3: "control system 10 (not described further)"). Since the control system and the calculations it performs are critical to the invention, one of ordinary skill in the art would have required such details in order to make and use the invention as claimed.

B. All claims depending from a rejected base claim are also rejected as containing the same deficiencies.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 11-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. As per claim 11, line 12 refers to "a system deviation" and at line 14 "the system deviation"; however, the claim refers to two different systems (hybrid drive system, line 1 and control system, line 5). It is unclear which system the deviation is associated with.

B. All claims depending from a rejected base claim are also rejected as containing the same deficiencies.

9. Claims 11-20, as best interpreted given the deficiencies noted above, are distinguishable over the prior art. As per claims 11 and 18, the prior art of record does not show or reasonably suggest, in combination with the other claimed subject matter, a plurality of rotation speed controllers for each of the internal combustion engine, the first

electric motor and the second electric motor in which deviations between calculated target rotation speed and actual rotation speeds are used by the controllers to calculate an additional torque used in conjunction with target torques calculated by a control system for controlling the torque of the internal combustion engine, the first electric motor and the second electric motor. It is noted that paragraphs [0071-0076] of US 2002/0113440 (Kimura et al.) cited in the PCT search report fail to disclose a control system for calculating target rotation speeds and target torques for each of the internal combustion engine, the first electric motor and the second electric motor or controlling the torque of each of the internal combustion engine, the first electric motor and the second electric motor using calculated target torques and additional calculated torques calculated based on deviations in target rotation speeds and actual rotation speeds. Dependent claims 12-17 and 19-20 are distinguishable for at least the same reasons.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J. Zanelli whose telephone number is (571) 272-6969. The examiner can normally be reached on Monday-Thursday 9:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J. Zanelli/
Primary Examiner
Art Unit 3661